

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

January 5, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 5, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing, Vice-Chair; John W. McKay, Jr.; Bill Johnson (In @ 1:35); Elizabeth Bishop; Don Anderson; Denise Sherman (In @ 1:35); Bud Hentzen; Ronald Marnell; Hoyt Hillman (Out @ 2:47) and Morris K. Dunlap. M.S. Mitchell and Bob Aldrich were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Scott Dunakey, Associate Planner; David Barber, Advanced Plans Manager; and Rose Simmering, Recording Secretary.

1. Approval of December 22, 2005 meeting minutes.

Deferred action.

❖ SUBDIVISION ITEMS

BISHOP I believe if I could ask Neil a direct question about the drainage plans regarding all of the cases on the agenda today, it would help not to pull each one for review.

STRAHL The question is whether the drainage plans have been approved for all the plats on the agenda today?

BISHOP Yes, they are stated variously in the staff reports. In some instances it says they are being reviewed, and others it reads like nothing has even been submitted yet.

STRAHL All the drainage plans have been submitted. Item 2-2, has not been approved yet, but as is our normal procedure we will retain the plat until that time, and not release it until the drainage plan is approved. Item 2-3, City Engineering has approved it, however, County Engineering has not.

BISHOP Why the involvement of both governing bodies? Is this right on the line, or a future annexation issue? It is not clear.

STRAHL I believe a portion, some of the surrounding property is in the County. This was my understanding for Item 2-3. Item 2-4, that is in the County, and an updated drainage plan needs to be submitted to County Engineering. Item 2-5, I don't have any comments on that report so that needs to be submitted to County Engineering. Item 2-6 needs to be submitted to County Engineering, however City Engineering has approved it.

BISHOP Item 2-7 just says it is under review. Is it still under review?

STRAHL That is correct.

❖ SUBDIVISION ITEMS

2. Consideration of Subdivision Committee recommendations from the meeting of December 29, 2005.

2-1. SUB 2005-143: One-Step Final Plat -- EDWARDS ESTATES ADDITION, located south of 47th Street South and on the east side of Meridian.

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. The applicant shall guarantee the extension of future sanitary sewer lateral and provide in lieu of assessment fees for sewer main. The sewer in lieu of assessment can be included in the lateral petition. In lieu of assessment for water connections also apply.
- C. **A memorandum shall be obtained specifying approval of the proposed temporary on-site sewerage facilities from City Environmental Services.**
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- E. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- F. **Traffic/County Engineering** needs to comment on the access controls. The plat proposes two access openings along Meridian. **Traffic Engineering and County Engineering recommend a combined drive on the north and a guarantee of closure of south drive.**
- G. The joint access opening shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- H. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- I. Additional right-of-way needs to be dedicated along Meridian to conform with the 60-ft half-street right-of-way required by the Subdivision Regulations. A 30-ft contingent dedication of street right-of-way has been provided in lieu of an outright street dedication. **Sedgwick County has a CIP project in 2007 on Meridian. Thirty foot contingent dedication should be shown as outright dedication.**
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- K. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- L. The County Commissioners certification needs to be deleted as this will be a City plat upon annexation.
- M. In the title block "Wichita" needs to be added.
- N. The applicant is advised of the likelihood that the year "2006" will need to replace "2005" within various signature blocks.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

STRAHL There are two lots, a lot to the west, and a lot to the east. In the rear, back here, there will be a sewer extension needed to serve the two lots. The applicant had requested review by DCC - Development Coordinating Committee - on December 22nd to seek a waiver on that sewer extension. The DCC did recommend a sewer agreement to not require an extension and connection to the City sewer at this time. Last week the Subdivision Committee did approve the plat with the requirement for a future extension of sewer. City Environmental Services was present at the meeting, and they indicated they would allow a permit for temporary on-site sewer services subject to various conditions.

BISHOP Can you give me an explanation as to what is meant by temporary?

STRAHL I probably will let Environmental Services comment on that, but I believe there is a 10-year limitation on that temporary system

PHIL MEYER, Baughman Company, 315 Ellis, Wichita, KS. I concur with everything that Neil stated to you. We did go in front of the DCC, and we did ask for an exception for a unique situation on this piece of property. There is a major cost involved in this sanitary sewer. I presented an estimate to them that was \$46,000, and divided by two lots that is \$23,000 a lot or I just used \$20,000 per lot, and that is more than what a normal lot would carry in full specials - sewer, water, streets, storm drainage. We have groundwater problems out here which is one of the reasons that estimate is so high. That is a 54" sewer main in Meridian so there is an extensive cost in tapping that. What we asked for was an agreement, which we are in full agreement with the conditions, that the Sewer and Water Department has put on that we will join a benefit district in the future when it comes in surrounding us, and the costs are more economic to do that. We have also agreed if we ever have a problem with either one of the septic systems on either lot, we will agree to extend sewer at that time, and we also have agreed to the 10-year maximum time frame.

JAMES BARFIELD, 2131 N. Edgemoor, Wichita, KS 67208 I am here to represent the property owner that owns property to the east, to the north, and to the south of this proposal. The property owner was not informed of changes being requested for this property. There was no signage posted, no notification given. He doesn't know if this will adversely affect his property or not. He is requesting me to appear here today, and request for a two-week deferral so he can gain more information to determine whether he will be in favor of or against this proposal.

MEYER The surrounding property owner is Mr. Jeff Bannon. We posted a sign on this site, and I have not spoken to Mr. Bannon. The landowner has told me that he has spoken to Mr. Bannon because when Mr. Bannon saw the Baughman flags on the site he called the landowner. According to Mr. Edwards, he told Mr. Bannon that he was platting this into two lots, and moving his house to the back, and I am under the impression that Mr. Bannon is fully aware of what we are doing. He may not have been aware of the agreement of the sanitary sewer extension but I don't see how that affects the platting of this property. We have met the Subdivision Committee requirements, and we have worked an agreement on the sewer. Am I going to oppose the deferral? No. Is there a reason for a deferral? No. I don't see what would be gained by the deferral. I would be glad to met Mr. Bannon if we need to between now and City Council.

HILLMAN If I understand, you are looking for something other than an immediate connection with the sewers?

MEYER This existing house is on a septic system right now that sits right here, and this landowner is going to build another house back here for himself, and he is asking to operate temporarily on another septic system until such time as the property around it develops into a subdivision.

HILLMAN Where is the closest sewer system?

MEYER There is a sewer system in Meridian that is a 54" sewer main that runs down to the sewer plant. It is immediately adjacent. It sits down 17-18' deep so it is sitting down in groundwater and it is an expensive connection to it.

HILLMAN I am concerned with doubling up on a current septic system, and when the water is so close to the surface to begin with, it almost doesn't make sense.

BISHOP I have a question about the annexation. Where are the lines as far as City property, County property?

MEYER The City of Wichita is directly across the street on the west side of Meridian, and then immediately adjacent. Mr. Bannon's property continues to be in the County, and then east of that and south of that is South Lakes Soccer and Softball Complex.

HILLMAN Has there been any groundwater testing done in the area to see if the current septic system is successful?

MEYER Not yet, one of the conditions that we agreed to with the plat is that we will meet with the City Health Department requirements. So before this plat can go before the City Council we will run those tests, and to get their approval to be sure that we are acceptable with whatever that groundwater is, and then the plat will go forward. So there is still the possibility that if I can't get a septic system in there, per their codes then I won't be able to do a septic system. So that protection is still there on the City's behalf. We typically don't do that testing until after Planning Commission approval.

MOTION: Defer two weeks.

BISHOP moved, **HILLMAN** seconded the motion.

BISHOP I think there are enough issues with the waiver of the sanitary sewer hookup, and the proposed annexation that goes along with the planning. I can see where the neighbors would have an opportunity to look at the plans, and when it does go to the City Council for review that is not a public hearing.

SUBSTITUTE MOTION: To approve subject to staff recommendations.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (10-1).
Bishop opposed.

2-2. SUB 2005-126: Final Plat -- SILVERTON ADDITION, located north of 13th Street North and on the west side of 135th Street West.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water (main and lateral) to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **A 20-ft drainage easement is needed between Lots 7 and 8, Block F. An off-site drainage easement is needed.**
- E. **Traffic Engineering** has requested a petition for left-turn lane at Ridgepoint.
- F. **County Public Works** has requested that the City of Wichita annex 135th St. adjacent to plat.
- G. The plat's text should include language that protects the public from cost to reconstruct improvements in reserves I and F.
- H. The year "2006" needs to replace "2005" within the signature blocks.
- I. Willoughby Cir may be reduced to a 58-ft right-of-way.
- J. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- L. If any of the intended recreational uses for the reserves includes a swimming pool, "neighborhood swimming pool" shall be specified in the plat's text and a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. If there is a swimming pool to be built, the design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- M. An onsite benchmark is needed.
- N. Because of the landlocked nature of Reserve D being platted, a means of access for maintenance shall be provided.

An access easement has been platted as requested.
- O. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- P. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- Q. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- R. **GIS** needs to comment on the plat's street names. **Decker needs to be labeled on both sheets. Stout needs changed to Kap.**
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- T. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- CC. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

- 2-3. **SUB 2005-149: Final Portion of Overall Preliminary -- CHERYL'S HOLLOW SECOND ADDITION**, located west of 135th Street West and on the north side of 13th Street North.

NOTE: This final plat is the north portion of the preliminary plat and represents the second phase of development.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer main and laterals and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering needs to review the drainage plan. Applicant needs to discuss with the County the need for the easement for channel change. City Engineering has approved the drainage plan subject to the need for revisions.**
- D. The lots in Block 12 need to be renumbered.
- E. No Block 11 is shown.
- F. **Traffic Engineering** has requested a petition for left turn lanes.
- G. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac (64-ft) streets.
- H. The Applicant shall guarantee the paving of 13th St. North from the end of paving for Cheryl's Hollow Addition to the first entrance of this plat.
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."

- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 2, Block 1. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **During preliminary plat review, the Subdivision Committee has approved this modification.**
- N. **GIS** needs to comment on the street names. **New street names are needed.**
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

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- 2-4. **SUB 2005-145: One-Step Final Plat -- MARTIN ESTATES SECOND ADDITION**, located west of 151st Street West and south of Central.

NOTE: This site is located in the County within three miles of Wichita's boundary. It is in an area designated as "2030 Urban Service Area" by the Wichita-Sedgwick County Comprehensive Plan. It is a replat of the Martin Estates Addition vacating the Lot Bundling development. It is located in the Goddard Area of Influence.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- C. **City Water Department** requests a petition for future extension of City water and sewer services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **Applicant shall meet with County Engineering to discuss the need for present topography showing location of constructed houses, drives, and drainage. An updated drainage plan is needed. Drainage easements need to be changed based on the applicant's drainage plan.**
- F. The area indicated as 70' Ingress-Egress easement should be labeled contingent street dedication and a temporary cul-de-sac should be shown at the south end of the plat.
- G. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- I. The year "2006" needs to replace "2005" within the signature blocks.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

- 2-5. **SUB 2005-150: One-Step Final Plat -- MIES AND SONS TRUCKING ADDITION**, located on the northeast corner of 199th Street West and 85th Street North.

NOTE: This is unplatted property located in the County in an area designated as "K-96 Special Uses Corridor" by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a Conditional Use (CON 2002-49, CU-553) for an agricultural sales and service facility.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan.
- D. Access controls need to be platted. The final plat shall reference the dedication of access controls in the plat's text. **County Engineering recommends access control except for one opening on 85th St. North and complete access control on 199th St. West.**
- E. The applicant shall contact Sedgwick County Public Works to establish a first floor elevation for any future buildings
- F. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- O. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

2-6. **SUB 2005-147: One-Step Final Plat -- K-96 BUSINESS PARK ADDITION**, located on the northwest corner of 29th Street North and Greenwich Road.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site has been approved for a zone change (ZON 2005-32) from SF-20, Single-Family Residential to LI, Limited Industrial. A Protective Overlay (P-O #162) was also approved for this site addressing uses, outside storage, screening, signage, and building height.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water (main and lateral) to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County needs to review the drainage plan. City Engineering has approved the drainage plan subject to the need for revisions.**
- E. **County Public Works** advises that the City of Wichita needs to annex Greenwich Road abutting the proposed plat.
- F. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **A petition for decel lanes into major openings is requested along Greenwich contingent upon a future determination by Traffic Engineering.**
- G. **County/Traffic Engineering** needs to comment on the access controls. The plat proposes six openings along Greenwich in accordance with Access Management Standards. **The access controls are approved with the condition of a shared access for the northernmost drive.**
- H. A PO Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PO and its special conditions for development on this property.
- I. The year "2006" needs to replace "2005" within the signature blocks.
- J. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

2-7. **SUB 2005-151: One-Step Final Plat -- MYERS ACRES ADDITION,** located south of MacArthur Road and east of Ridge Road.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "2030 Urban growth area" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In accordance with the Urban Fringe Development Standards, the subdivider shall contact the City of Wichita to determine the financial feasibility of connecting the proposed subdivision to the city water system. If financially feasible, the subdivision shall be connected to Wichita's water system in accordance with City of Wichita standards.
- C. **City of Wichita Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The submitted drainage plan shows a greater area than being platted. The drainage plan is under review.**
- F. The applicant shall file a covenant for perpetual maintenance of the private access road per **Sedgwick County Fire Department** requirements.
- G. **County Engineering** requests establishment of an off-site access easement for the property to the south.
- H. An onsite benchmark is needed.
- I. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- J. The applicant shall grant by separate instrument, an off-site temporary cul-de-sac as denoted on the plat.
- K. The plat's text shall reference ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The pipeline easement needs to be located.
- N. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the County.
- O. Owner will need permission from pipeline company for driveway crossing.
- P. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet

with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

2-8. DED 2005-30: Dedication of a Utility Easement, located east of Hood and south of 29th Street North.

A) DED 2005-30: Dedication of a Utility Easement for property located east of Hood and south of 29th Street North.

APPLICANT: Mennonite Housing, 2145 N. Topeka, Wichita, KS 67214

AGENT/SURVEYOR: Don Armstrong, Armstrong Land Survey, 1601 E. Harry, Wichita, KS 67211-4504

LEGAL DESCRIPTION: The north 2 feet of the south 10 feet and the east 4.5 feet of the west 148 feet of the following described tract: That part of the west 125.5 feet of the south half of the north 3.77 acres of Lot 1 and vacated right-of-way adjacent on the west, Goulds Gardens Addition, Wichita, Sedgwick County, Kansas; beginning at the southwest corner of said tract; thence N0°1'38" W an assumed bearing along the west line of said tract, 56.97 feet; thence N87°49'57" E, 153.61 feet to the east line of said tract; thence S0°01'25"W, 62.77 feet to the southeast corner of said tract; thence S89°59'53"W along the south line of said tract, 153.50 feet to the point of beginning.

PURPOSE OF DEDICATION: This dedication is associated with a lot split case (SUB 2005-110), and is being dedicated for construction and maintenance of public utilities (existing sewer line).

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

2-9. DED 2005-33: Contingent Dedication of Street Right-of-Way and DED 2005-34: Dedication of a Utility Easement, located east of Seneca and north of 31st Street North.

A) DED 2005-33: Contingent Dedication of Street Right-of-Way and B) DED 2005-34: Dedication of a Utility Easement for property located east of Seneca and north of 31st Street South.

APPLICANT: Greg Meitner, Trustee, Meitner Family Trust, 916 Redbarn Lane, Wichita, KS 67212

AGENT/SURVEYOR: Sandalwood Surveying, c/o Jim Bishop, L.S., P.O. Box 75053, Wichita, KS 67275- 5053

LEGAL DESCRIPTIONS:

A) The south 30 feet of Lot 3, except the north 137.51 feet of Robson Heights Addition, Sedgwick County, Kansas.

B) The south 2 feet of the north 147.51 feet of Lot 3, Robson Heights Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: These dedications are associated with a lot split case (SUB 2005-125), and is being dedicated for **A)** street right-of-way along Diane Street, contingent upon the widening of Diane Street; and **B)** construction and maintenance of public utilities (existing sewer line).

STAFF RECOMMENDATION: Accept the Dedications.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

2-10. DED 2005-35: Dedication of Street Right-of-Way and B) DED 2005-36: Dedication of Access Control, located south of Pawnee and west of Meridian.

A) DED 2005-35: Dedication of Street Right-of-Way; **B) DED 2005-36:** Dedication of Access Control; **C) DED 2005-37:** Dedication of Access Control and **D) DED 2005-38:** Dedication of Street Right-of-Way, for property located south of Pawnee and west of Meridian.

APPLICANT: A&C) Nance Properties, LLC, C/O Barbara Nance, P.O. Box 13195, Wichita, KS 67213
B&D) Judith Tramposh, 229 Ward Parkway, Unit 1001A, Kansas City, MO 64112

AGENT/SURVEYOR: Terra Tech Land Surveying, Inc., 22200 W. 63rd Street So., Viola, KS 67149

LEGAL DESCRIPTIONS: **A)** The north 10 feet of Lot 1, Jan Lee Second Addition, except the east 120 feet thereof; **B)** The east 120 feet of Lot 1, Jan Lee Second Addition; **C)** Lot 1, Jan Lee Second Addition, except the east 120 feet thereof; and **D)** Beginning at a point 20 feet west of the northeast corner of Lot 1; thence northwesterly along the north line of Lot 1, to a point which is 120 feet west of the east line of Lot 1; thence south on the west line of the east 120 feet of Lot 1, a distance of 10 feet; thence easterly, a distance of 101.47 feet (+/-) to the point of beginning, Wichita, Sedgwick County, Kansas..

PURPOSE OF DEDICATION: These dedications are associated with a lot split case (SUB 2005-111), and are being dedicated for **A&D)** street right-of-way along Pawnee Avenue and **B&C)** complete access control, except for one opening along Pawnee Avenue.

STAFF RECOMMENDATION: Accept the Dedications.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

2-11. DED 2005-37: Dedication of Access Control and B) DED 2005-38: Dedication of Street Right-of-Way, located south of Pawnee and west of Meridian.

A) DED 2005-35: Dedication of Street Right-of-Way; **B) DED 2005-36:** Dedication of Access Control; **C) DED 2005-37:** Dedication of Access Control and **D) DED 2005-38:** Dedication of Street Right-of-Way, for property located south of Pawnee and west of Meridian.

APPLICANT: A&C) Nance Properties, LLC, C/O Barbara Nance, P.O. Box 13195, Wichita, KS 67213
B&D) Judith Tramposh, 229 Ward Parkway, Unit 1001A, Kansas City, MO 64112

AGENT/SURVEYOR: Terra Tech Land Surveying, Inc., 22200 W. 63rd Street So., Viola, KS 67149

LEGAL DESCRIPTIONS: **A)** The north 10 feet of Lot 1, Jan Lee Second Addition, except the east 120 feet thereof; **B)** The east 120 feet of Lot 1, Jan Lee Second Addition; **C)** Lot 1, Jan Lee Second Addition, except the east 120 feet thereof; and **D)** Beginning at a point 20 feet west of the northeast corner of Lot 1; thence northwesterly along the north line of Lot 1, to a point which is 120 feet west of the east line of Lot 1; thence south on the west line of the east 120 feet of Lot 1, a distance of 10 feet; thence easterly, a distance of 101.47 feet (+/-) to the point of beginning, Wichita, Sedgwick County, Kansas..

PURPOSE OF DEDICATION: These dedications are associated with a lot split case (SUB 2005-111), and are being dedicated for **A&D)** street right-of-way along Pawnee Avenue and **B&C)** complete access control, except for one opening along Pawnee Avenue.

STAFF RECOMMENDATION: Accept the Dedications.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **DOWNING** seconded the motion, and it carried (10-1). **BISHOP** opposed.

❖ **PUBLIC HEARINGS – VACATION ITEMS**

3-1. VAC 2005-47: Request to Vacate Request a Portion of a Platted Setback.

<u>APPLICANTS/OWNER:</u>	Doye & Jeff Williams
<u>LEGAL DESCRIPTION:</u>	The north 4-feet of the platted 25-foot front setback running parallel to the south lot line of Lot 7, Block 1, the Red Oaks First Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located east of Webb Road, on the south west corner of Harry Street and Lockmoor Street (WCC District II)
<u>REASON FOR REQUEST:</u>	Mortgage requirement
<u>CURRENT ZONING:</u>	Site and abutting and adjacent properties south, west and east of the site are zoned "SF-5" Single-family Residential. Harry Street abuts the north side of the site.

The applicants are requesting consideration to vacate the north 4-feet of the platted 25-foot front yard setback. A mortgage survey revealed an encroachment of less than a foot into the platted front setback. The vacation will clear the encroachment and satisfy a requirement of the mortgage company. Per the UZC, the "SF-5" zoning district has a 25-foot front setback: same as the site's platted 25-foot setback. If the setback was not platted the 25-foot setback could be reduced by 20% by an Administrative Adjustment. There are no utilities, sewer lines, manholes or water lines in the platted setback. There are no platted easements in the platted setback. The Red Oaks First Addition was recorded with the Register of Deeds June 15, 1978.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of a portion of the platted 25-foot front yard setback, as described.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time December 15, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted front yard setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted 25-foot front setback described in the petition should be approved with conditions:
- (1) Vacate the north 4-feet of the platted 25-foot front yard setback on Lot 7, Block 1, the Red Oaks First Addition, as recorded with Wichita, Sedgwick County, Kansas. .
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
 - (3) All improvements shall be according to City Standards.
 - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

- (1) Vacate the north 4-feet of the platted 25-foot front yard setback, on Lot 7, Block 1, the Red oaks First Addition, as recorded with Wichita, Sedgwick County, Kansas.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and

all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **DOWNING** seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: CUP2005-72 DP293 and ZON2005-54** – Northwest Free Methodist Church (owner); Baughman Company, PA, c/o Terry Smythe (agent) Request The creation of E.S. Development Midwest Commercial Community Plan; and Zone change from “SF-5” Single-family Residential to “LC” Limited Commercial

Lot 1, Block A, Agape Addition to Sedgwick County, Kansas, together with vacated 23rd Street adjacent on the North and vacated Crestline Road adjacent on the East.

as shown by the last deed of record filed in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 15th day of November, 2005 at 7:00 A.M. Generally located East of Maize Road approximately 1/4 mile north of 21st Street North.

BACKGROUND: The applicant proposes to create a commercial Community Unit Plan containing approximately 4.54 acres located east of Maize Road approximately ¼ mile north of 21st Street North and rezone the property from “SF-5” Single-family Residential to “LC” Limited Commercial. The CUP anticipates cross lot circulation with DP-204 Chadsworth Commercial CUP (see General Provision 23). The proposed CUP would be designed to tie together with this commercial development.

The CUP has one parcel, which would permit uses considered to be more compatible in close proximity to residential than normally found on an “LC” zoned tract. Permitted uses would be the following:

Residential: single-family; duplex; assisted living

Public and civic: church or place of worship; college or university; community assembly; convalescent care facility; day care; government service; hospital; library; parks and recreation; recycling collection station; safety service; school; utility, minor

Commercial: ATM; bank or financial institution; broadcast/recording studio; funeral home; hotel or motel; medical service; nursery and garden center (would require CUP amendment prior to establishment); office, general; parking area, commercial; personal care service; personal improvement service; post office substation; printing and copying, limited; recreation and entertainment, indoor; restaurant; retail, general; vocational school; wireless communication facility; storage, outdoor.

The list of prohibited uses would be: adult entertainment establishment; sexually oriented business; asphalt/concrete plant; private club; tavern, drinking establishment; multi-family; accessory apartment; group residence; neighborhood swimming pool; cemetery; correctional placement residence; golf course; group home; recycling collection station; reverse vending machine utility, major; animal care; bed and breakfast inn; car wash; construction sales and services; convenience store; heliport; kennel; marine facility; monument sales; night club in the City; parking area, commercial; pawn shop; printing and publishing, general; recreation and entertainment, outdoor; recreational vehicle campground; secondhand store; service station; vehicle and equipment sales, outdoor; vehicle repair, limited; manufacturing, limited; mining or quarrying ; oil or gas drilling; rock crushing; solid waste incinerator; agricultural research; agricultural sales and service.

Conditional uses in “LC” would require a CUP amendment approval in lieu of Conditional Use approval prior to being permitted.

Buildings would have uniform architectural compatibility of character, color, texture and materials, and would use earth-tone colors predominately. Parking lots would have similar or consistent lighting elements, limited to 24 feet in height. Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent. Maximum building height would be 35 feet. This is the same height allowed in the adjoining residential zoning district. The proposed number of buildings would be four.

Ground signage would be three monument type signs with a maximum height of 20 feet and a total sign area of 325 square feet in size, which exceeds the amount allowable under the Wichita Sign Code of 264 square feet. Portable and off-site signs are prohibited. Window displays would be limited to 25% of window area and signs on the rear would be prohibited. Moving signs except time and temperature or public service message are prohibited.

A six-foot concrete/masonry screening wall is required on the north, east and south property line adjacent to residential zoning. The setback proposed on the CUP is 100 feet on the east property line to afford greater separation for the abutting residential dwellings to the east and south. The standard 35-foot setback for a CUP is shown on the north property line.

The property currently is zoned “SF-5” and developed with a church, which would be razed. The property to the east, north, and eastern 100 feet on the south is zoned “SF-5” Single-family Residential and developed with single-family dwellings in the

Chadsworth Subdivision. The property to the south (except for the eastern 100 feet of the southern property line), and to the west across Maize Road is zoned "LC" and developed with a wide range of commercial uses, including sit-down restaurants, drive-through restaurants, small multi-tenant commercial buildings, banks, auto repair, large grocery store (Dillons), Wal-Mart, the main NewMarket Square Shopping Center.

CASE HISTORY: The property is platted as Agape Addition, recorded January 11, 1999.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residential
SOUTH: "LC"; "SF-5"	Commercial strip center, auto repair, restaurant, grocery, bowling alley
EAST: "SF-5"	Single-family residential
WEST: "LC"	Shopping center; bank, Wal-Mart, multi-tenant commercial building, restaurants

PUBLIC SERVICES: Two access points are requested on Maize Road. Maize Road is a six-lane (two in each direction of travel and dual-left continuous turn lanes) along the property. A signalized intersection is located 125 feet north of the property serving NewMarket Square. Traffic expected from this tract should be a relatively modest increase compared with the existing traffic volume on Maize Road.

Other normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "major institutional" use. The requested change is not in conformance with the Land Use Guide and reflects its current approval for church use.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines.

RECOMMENDATION: The proposed CUP is similar or lesser in intensity to commercial development approved and developed to the south and west along Maize Road. The property to the south on the east side of Maize Road is designated as "local commercial" and the property on the west as "regional commercial". This tract more closely fits the "local commercial" designation, which is the category encompassing commercial, office and personal service uses that do not have a significant regional market draw. Creating an adequate buffer between the proposed rezoning tract and the residential dwellings to the north and east is the key concern for the CUP requirements.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2005-54) to "LC" Limited Commercial subject to replatting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-293), subject to the following conditions:
 1. Access shall be limited to one full movement and one right-in/right-out and be in compliance with the Access Management Policy.
 2. Increase the building setback on the north property line to 70 feet and retain the existing tree row of coniferous trees along the north and east property lines.
 3. Add to General Provision 7 F: *and shall be spaced a minimum of 150 feet apart, with no sign allowed within 70 of the northern property line, and a maximum sign face area of 264 square feet (0.8 times lineal frontage) cumulative for the CUP.*
 4. Add to General Provision 9 A (changes in italics): *Limited height of light poles including fixtures, lamps and base to 24 feet except within 100 feet of residential zoning districts and on the rear wall of buildings adjoining residential zoning districts lighting (building wall units and freestanding standards) shall be limited to 15 feet in height, including poles, fixtures, lamps and base, and shall have directional shielding to prevent light spillage onto residential zoning districts and otherwise comply with General Provision 8.*
 5. Add to General Provision 14: *with materials similar to the exterior materials of the main buildings.*
 6. Add to General Provision 15: *Metal shall not be used as the predominant exterior material on any façade and shall not be permitted as the exterior material above the height of the screening wall except for trim for facades directly abutting residential zoning.*
 7. Add to General Provision 17: *Conditional uses shall be permitted only if approved by a CUP amendment.*
 8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 9. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 10. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 11. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-293) includes special conditions for development on this property.

12. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property currently is zoned "SF-5" and developed with a church. The property to the east, north, and eastern 100 feet on the south is zoned "SF-5" Single-family Residential and developed with single-family dwellings in the Chadsworth Subdivision. The property to the south (except for the eastern 100 feet of the southern property line), and to the west across Maize Road is zoned "LC" and developed with a wide range of commercial uses, including sit-down restaurants, drive-through restaurants, small multi-tenant commercial buildings, banks, auto repair, large grocery store (Dillons), Wal-Mart, the main NewMarket Square Shopping Center.
2. The suitability of the subject property for the uses to which it has been restricted: The area is developing with commercial uses but could continue to be used as a church. Residential uses other than assisted living are unsuited for the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact is to the residential dwellings abutting the proposed development. The wider setback and retention of the mature evergreen buffer is designed to mitigate the impact. Also, keeping signage at least 70 feet from the northern property line will reduce the signage impact on the abutting residences. The range of uses prohibited reduces the potential impact on the adjacent neighborhood. The more intensive auto-serving uses such as car wash, vehicle repair, convenience store and service station are prohibited.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "major institutional" use. The requested change is not in conformance with the Land Use Guide and reflects its current approval for church use. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines.
5. Impact of the proposed development on community facilities: Traffic expected from this tract should be a relatively modest increase compared with the existing traffic volume on Maize Road. The main concern is to maintain adequate spacing and avoid conflicting left turn movements by adhering to the Access Management Policy for access points and reducing one access point to right-in/right-out only.

GOLTRY This is a zone change from SF-5 Single-family to LC Limited Commercial, and a voluntary CUP. The hope by the developer is to tie this development to the Chadsworth Commercial CUP that is immediately to the south. So, it would make a unified development and this could be considered more of an extension. The list of permitted uses is different than we often see in conjunction with CUPs, in that they have limited themselves to a smaller range of uses. I have listed those permitted on page 2, of the staff report. I would ask that you add one back in as a permitted use on that site. That would be "Group Home". Because of a State statute, we cannot exclude "group home" if we are including similar types of uses.

Also, 'wireless communication facility, listed under commercial uses, will also be prohibited.

Some of the staff recommendations were to refine some of the general provisions of the CUP, and it is my understanding that the applicant is in agreement with all of the staff recommendations with the exception of one. The applicant has requested to reduce the setback on the western 300 feet of the north property line to 50 feet and has agreed to provide solid evergreen screening in this setback. They hope to transplant the existing mature trees in the tree row along the north and south property lines to provide most of the evergreen screen.

MCKAY Being realistic, those evergreens being that size, many of them will not live after being moved.

GOLTRY The agent has an expertise in this field, and has evaluated it, so I will let him answer those questions. I know that all of them (referring to the trees) will not make it, because you have to spade them out.

MCKAY On the plat you only show a 35-foot setback and you are requesting 70-foot?

GOLTRY Yes, the CUP drawing that was submitted did have the 35-foot (setback), and we have requested 70 feet. The applicant is in agreement with the 70 feet, except for the western 300 feet where they are requesting the 50-foot setback.

MCKAY Can you show us approximately what you are talking about on the map?

GOLTRY It would be the west half of the property.

MCKAY So they come back 200 feet?

GOLTRY They have requested 300 feet.

HENTZEN On requirement #5 and #6, is that what the applicant requested or the staff requested?

GOLTRY That is what the staff requested, and it is typical of CUPs. The screening materials for trash dumpsters are to be constructed of materials similar to the buildings.

HENTZEN Neither one of those requirements #5 or #6 have to do with trash enclosures.

GOLTRY Provision #14 does.

HENTZEN What I am asking, did the applicant ask for the requirements or did you impose those requirements? Condition #6 did you ask for that requirement?

GOLTRY We requested that, and we have requested that on virtually on all CUPs hat have any kind of a façade that is in close proximity to residential use; , and that metal not be the predominant material.

HENTZEN Can you tell me where you get that authority?

GOLTRY We requested it, and they agreed to it, and it is typical of almost all CUPs that we have been doing the last 20 years. The Unified Zoning Code allows the Development Plan to be developed in a uniform manner that allows for compatible development. If you look at Article III-C.2.a of the UZC, it gives the purpose statement for CUPs.

TERRY SMYTHE, BAUGHMAN COMPANY We have a preliminary site plan that may help clarify a few things. Thank you for allowing me the opportunity to present to the Commission an infill project that will allow the expansion of existing uses along Maize Road. About six months ago, the church approached the broker because they are looking for a new location, and they no longer wanted to be located near the shopping center on that busy road. And they wanted something a little more quiet for all of the church activities they want to do. They are looking to move.

Generally when we file cases like this, I can file it under straight "LC" Limited Commercial zoning. I chose not to do that because I think it needs the same protection, if not a little more protection, than the existing Chadsworth CUP to the south. So we chose to put together a CUP, in addition to the straight zoning. And, as you well know, the CUP has always been put together to further restrict the development, and in doing that we ensure some greater compatibility. In this case, the CUP will eliminate over 40 uses, and provides for greater setbacks than the Code requires. And, it limits heights to buildings to match the surrounding areas, and the CUP provides for architectural compatibility as well as lighting standards that are less than Code required. There are, under the UZC, sections that address that require lighting controls for commercial uses adjacent to residential areas. Any noise issues are controlled and enforced by Chapter 7.41 of the City Code, in addition we have the current Access Management Policy which will limit and help locate our drives onto Maize Road to further keep Maize Road flowing as freely as possible.

If we are successful in our request, with the expansion of existing uses, the owner intends to coordinate with the Chadsworth CUP to the south and redevelop some of the existing uses in that CUP, and tie the properties together so they internally function from an access standpoint.

We have agreed to the revised staff comments, which reflects our wish, which is indicated by the site plan, to locate the setback along the north side, the west 300 feet, to a 50 foot building setback. Now, if you remember some of the slides that we had on before, that Donna showed, there was a slide that showed some of the homeowners (residences) and what was the old vacated street right-of-way, and then some of the evergreen trees. Roughly, if you look from the edge of the evergreen trees to the property line, that is approximately 50 feet. Our intention is to take all the existing evergreen trees down the middle of the property, if you noticed along the north property line about 60 feet back is the existing evergreen hedgerow that was planted along the old street right-of-way, our intention is to take those trees and move them to the north and use those as our screening requirement, as well as, a concrete wall along that north property line. Those trees are somewhat mature in their caliper, and when we start spading trees out, we intend to probably use every other tree. By the time the tree spade comes in and pulls a hunk out and moves over to the one next to it, it isn't in too good of shape. If you look at all the trees that we have currently on the north side, we have the same number of trees, and it shows up under the red tape along this property line. Since our intention is to tie these two commercial CUPs together, all those other evergreen trees are available to transplant. So I am confident that we will have enough trees to create a living hedge, if that is what you want to call it, along the north property line. The east property line has some of the existing trees. as you can see. that will provide the buffer. We will have to build the concrete wall that is required by the Code. We have agreed with staff comments subject to that revision.

LAURA ROBERDS, 2411 N. CRESTLINE CT., Wichita, KS 67205 My house is Lot 21, on the east side with the backyard directly facing the proposed zoning change. I have lived at this home for 10 years now, and I moved here because of the peacefulness of the neighborhood, the west side location, no one living in my backyard, the quite cul-de-sac, and good neighbors, and a great sunset.

I am concerned about what commercial or retail business plans have been presented at this location, if any. Already since I have moved here, there is a Dillons, a bowling alley, restaurants, NewMarket Square, Wal-Mart; the whole area has developed quickly. The noise and picking up trash is what I am also concerned about. How are the trash receptacles going to be enclosed? When the trash trucks come and pick up the trash, they make a lot of noise. They start at 3 a.m., and they pickup big, huge bins of trash. And, it is very loud and disturbing. The noise, because of the businesses that are already there, is a big distraction, but will be even more so with it being in my backyard. I am also concerned about the lighting that has been put in place with the businesses and the parking lots. It sheds lights right in my back windows. How will this affect my property value?

DALE COPELAND, 2383 N. CRESTLINE, WICHITA, KS 67205 I find it ironic that the church wants to move because of the noise, yet they want to sell this property and have it developed for commercial property and leave us with increased noise in that neighborhood. My wife and I have lived here going on 4 years now. We decided to move into the Chadsworth neighborhood because it was a vibrant residential neighborhood and it was quiet. The homes are very well maintained; we have a very active Homeowners Association. Obviously, you are all familiar with the development that has taken place there just in the last few years.

Their application indicates that they want to restrict it so that we don't have any strip clubs in there, no adult entertainment. We don't have any bars. A heliport, they want to restrict that, as if they are doing us a big favor.

Many of the things that would be permitted, one is a hotel/motel. I manage a hotel in town and we have a quiet property, and there is a lot of traffic that goes in and out of there, day and night, 24-hours a day. And many of these others would involve the same thing.

One of the things that is indicated, as far as factors to be used by the MAPC in deciding what recommendations to make, includes group/neighborhood support or opposition. Obviously, there are people here today and we have some neighborhood opposition to the development. The character of the neighborhood is a very vibrant community as far as neighborhood is concerned. The suitability of the application for uses that it is currently zoned, the staff concludes that this property for residential uses other than assisted living are unsuited for this site. We disagree with that conclusion. We would certainly ask that you deny this application for rezoning.

BILL FISCHER, 10201 Sterling Court, Wichita, KS 67205 We are on the north lot and our backyard abuts the church soccer field. We are concerned about nighttime activity. I am the father of two small children, and I would hate to have people coming and going in my backyard, or what would practically be my backyard. There are 13 empty store fronts in the NewMarket Square area; also 2 empty store fronts to the north in another strip mall. I would like you to deny this application.

BOB TROILO, 10109 W. STERLING CT., WICHITA, KS 67205 I live on Lot 13 on your map. I have only been here 2 1/2 years, and when I was looking at this house, I stood on the front porch to see what the noise level was at that point. I have two blocks of residential development or that empty field surrounding me. I can sit in my driveway in the evening and not hear traffic on Maize Road. With businesses being put into this empty field, that is going to put this right in our backyard and we will use lose our quiet. And the neighbors have already said something about light saturation already. I am concerned about some of the uses like the restaurant, and the smell coming from that may be strong every time the wind blows out of the south right in your backyard. I don't mind smelling my neighbors' barbecue steaks, but a restaurant is a different story.

A nursery, garden center, I lived in Raintree Apartments and my door opened up to Johnson's Garden Centers back lot. And they would keep piles of mulch back there, which would break down into compost, giving off ammonia gas. And sometimes you would come out the door and couldn't catch your breath coming out the door. I am concerned about the amount and types of business that can go into that area.

JAY SCHWEIKERT, 2367 N. Crestline Ct., Wichita, KS 67205 I live on Lot 28, I would like to reiterate about the number of houses that this expansion is affecting. The two previous expansions from Dillons on up, the building and the construction was done at two different times. When the bowling alley went up, they wanted to restrict the metal building, but this building was metal. What is going to stop them from doing another like-kind of building, metal is a lot louder. This expansion proposal is affecting 12 houses directly; the ones in the past did 6 houses. So that is a 50% increase. You only live in a house an average of 7 years, my neighbors to the left of me tried to sell their house but they had a hard time with the commercial development behind them. With the lights, and the noise is a concern, the church wanted to move because of the noise.

SUE ELMER, 2411 N. CRESTLINE CT., WICHITA, KS 67205 My home will be directly affected; I think it is very important for you to listen to what I have to say about my quality of life, and my peaceful enjoyment, or why I have lived at this home for 10 years. In moving into this area, there was nothing out there at all, no Warren Theatre, no bowling alley, no Dillons. What a wonderful place for me to live. The Kramer Grass Farm was across the street, and I have enjoyed incredible sunsets. Knowing that eventually there was going to be expansion, those were things that I accept. But looking out my backyard, I see the church, I see children coming and going and playing soccer, I see children and adults coming out and watching softball games, and that is a good sense of community for me and my neighbors. My expectations for my home are very simple, landscaping, and adding onto my home with the expectation that I would live in my home for a long time. I feel as a result of this rezoning, there will be an increase in crime, noise, traffic, and trash. I have always been a part of helping out and doing what I can for my community and my neighborhood association. I have a concern about the value of my home.

My home sits up on a hill, slightly above where they are talking about the retainer wall is to be. It is nice they are identifying for this wall to be sitting back farther, but with my home being up higher, I am still going to get some lighting and I am going to experience things that when I bought my home, I was not expecting for it to happen. I am opposed to this request and ask for you to deny this application.

JOHNSON Where is your house?

ELMER Lot 21, on your map, and my neighbors, Lot 20, asked me to speak today and they are not here. They are Terry and Roxanne Spears.

MAURY RICHMEIER, 10113 W. STERLING CT., WICHITA KS 67205 I live on Lot 12, and I support everything my neighbors just spoke about. We knew the land back there was zoned residential, and had we know that there was a possibility that it would be rezoned commercial, there is a good chance that we would not have bought the property. Also, what would be the percentage of homeowners that will be affected by this? How does that compare to other like situations where probably a lot less homeowners are affected. I would like you to deny the application.

JAY SCHWEIKERT We are talking about the other communities in northwest Wichita or anywhere else on the west side, where all of the sudden in their backyard they have been chipped away piece by piece. That is probably about 20 acres that is gone and that is 25% that is gone to commercial. That is a large percentage.

LISA FISCHER, 10201 STERLING COURT, WICHITA KS 67205 We live on Lot 11, We back up right up to the proposed setback that they are talking about moving the trees and stuff. I am concerned about them moving the trees right up next to all of our property lines. How much really is a tree? As far as a buffer, trees die, and then you have to replant them and they are a lot smaller. There are already several trees in the area that have died. So, if they are going to use the existing trees that are up next to the ones

that were diseased, those could die as well. The trees are really not a great addition to our neighborhood when before we had a field where we could enjoy watching children play and a community sense. We will have increased light, traffic, and our kids' bedroom will back right up to that; trying to keep two little ones asleep at night, trying to deal with extra lighting in their room. We have been totally saturated with commercial property all around us. I request that you deny this application because it is not fair.

TERRY SMYTHE, BAUGHMAN COMPANY, 315 ELLIS, As you are aware, churches expand. I live near 29th and Rock Road and you see the large daycare, auditoriums, to provide kids with more stuff to do. It would be nice if vacant fields remained vacant; I have been in this business for over 25 years and it doesn't happen. If this was to remain a church, the only way to be viable would be to build larger buildings. The church is looking to go elsewhere so they have more room to do that, but that property can be developed today.

Why is this piece of property any different than the rest? I am going to go through a list of existing commercial properties that abut residential neighborhoods in this area. The existing Chadsworth Commercial CUP--all that got developed on the south side years ago. Maple and 135th Street northeast corner, you have residential to the north. Maple and Maize, on the northwest/southwest corner, you have commercial then residential to the north and the south. Westlink Shopping Center, you have residential to the south. 13th and Maize Road you have north, south, and east. Northwest Shopping center you have residential to the north of that center. 21st and 119th you have residential next to commercial at the northwest corner. 21st and Ridge and 21st and Tyler you look all around both those intersections, and you look at what is particularly on the south side of 21st Street. That is almost all commercial that abuts to residential.

How do you mediate that? By way of a CUP, limiting uses, lighting standards, by noise ordinance, nuisance ordinances. We have agreed to drop the hotel/motel, and the nursery garden center. We want to redevelop the bowling alley. The idea with this development if we are successful is that the bowling alley will not be there, not the 24-hour bowling. We are in compliance with the commercial locational guidelines.

HENTZEN That is only 4.54 acres, under the present zoning how many homes could you put in there?

SMYTHE When you get down to the small lots that are available, normal lots maybe 2 an acre, but if you get down to small lots, maybe double that. I have not done a residential study, so I can't tell you how we can put them in there.

SHERMAN What are the plans for the church if this doesn't happen? Are they going to stay there, or will they expand?

SMYTHE The broker has just informed me that the church has purchased another property already.

SHERMAN So, they have bought another property. What will they do with this?

SMYTHE Keep it on the market; they will have to sell it.

MCKAY You will move the trees on the north, and replant them and there is a fence besides that on the north? The buffer on the north?

SMYTHE Yes there is a required 6' masonry wall that will have to be added.

MCKAY So that is not what you are using to shield the neighbors?

SMYTHE It will be the trees, and the wall. Some of that will block the noise, the trash. And, the trees will help with the noise and light problems.

SHERMAN You just said that on this parcel you could build 2-3 houses?

SMYTHE I meant 2-3 per acre.

SHERMAN How many houses could go in there?

SMYTHE It is about 300 feet north/south, so I could put one single cul-de-sac down the middle, and put houses around it, maybe 15-20 houses.

SHERMAN With all this increased setback, and the developer has agreed to that, how much of a commercial building can they build, with parking and all the other requirements?

SMYTHE It looks from the site plan, the back building, which will be along the east side, is roughly 19,800 square feet of building. And then in the front, you will have two smaller out parcels that will probably be restaurants. The one restaurant to the north is a roughly 7,000 square foot building, and the smaller is more of a drive-thru restaurant that would maybe to a 2,000 square feet.

BISHOP I need clarification. I don't see any mention of a drive-thru restaurant as permitted or prohibited. So I am to assume that it is or is not permitted in "LC"?

SMYTHE Yes, drive-thru restaurants are permitted in "LC" Limited Commercial.

BISHOP Is there a plan for a drive-thru restaurant?

SMYTHE The location will be right here on the south end of this property, along Maize Road.

SHERMAN That is where the drive-thru is going to go?

SMYTHE Yes.

SHERMAN You are meeting with DAB V on Monday, January 9th?

SMYTHE Yes, that is correct. That is the first time they could schedule that meeting over the holidays.

GOLTRY I have been listening to the discussion about the drive-thru, and I say that one thing that could be done is to specify where the drive-thru is located on the south side, so it will be further away from the residential.

HILLMAN It seems like that is new information to the people that spoke, and they may have some questions of the applicant, we might defer this proposal until after the DAB has considered the case, or give them a chance to have their questions answered now.

WARNER We could do whatever this commission requests. I would say that I am not going to open this up between the applicant and the neighborhood at this meeting. It is back to the commission for our discussion and decision at this point and time.

MOTION: Defer until after the DAB meeting.

BISHOP moved **SHERMAN** seconded.

BISHOP I have concerns, and it is possible those could be ironed out with further discussion. I would, at this point and time, have a hard time approving a drive-thru restaurant that close to residential. It has issues of both light, car lights, and noise as people shout their orders. But perhaps that could be explained better with drawings, in terms of how that can be buffered, after the DAB meeting.

JOHNSON Would the public hearing already be closed and we wouldn't have anymore public testimony if we deferred two weeks?

BISHOP That is not part of my motion. I have a real hard time saying that nobody can speak to us, since there is no public hearing before the City Council. I feel like our meetings are the opportunity for the public to be heard. I realize the DAB also is that opportunity, and that is what I am trying to maximize, for that process to work.

HENTZEN We had an overwhelming vote recently on a property up on north Amidon, a positive vote for granting the request. The DAB of that area had a strong positive vote for it as well. If that is what we are going to do is make recommendations to the City Council and then have them ignore both the DAB and the MAPC, I don't know why we are delaying it for any reason.

DUNLAP I see no alternative suggestions. I don't see a deferment is going to cause the church to decide not to move. I don't see a deferment is going to cause the property to remain vacant. Twenty-five to 30 houses in there is going to draw the same objections that we are going to get in there today, or some similar ones. The vacant land is still going to disappear. So I cannot support the motion to defer.

SHERMAN I think it would be fair to let the process work. And, whether or not after two weeks or a month and they have a chance to answer their questions and work it out, it would be much better if they had an opportunity to work out whatever their issues are, and we moved forward positively, than to have someone feel like they were just forced into something. I see there is going to be real issues with this property now that the church has already bought property elsewhere. And there is not really too many other things that could work in this area. I understand from the developer's point of view we really don't have a lot of choices now; that everything has encroached, unfortunately, for them. I also understand that for a resident who has been in their home for 10 years, that they should have an opportunity to try and work through this.

SMYTHE We were waiting for the DAB meeting which was scheduled for next Monday.

SHERMAN I see positive and negatives on both sides, but I think it is fair to give them an opportunity to work through it, and hopefully, avoid something like the YMCA.

MOTION: Carried 6-5. **DUNLAP, MCKAY, JOHNSON, MARNELL, DOWNING** opposed

5. **Case No.: DR2005-34** – Request The City of Valley Center seeks unilateral annexation of a tract of land located adjacent to The City of Valley Center, requiring BOCC approval

Background: On November 1, 2005, the City of Valley Center passed Resolution No. 491-05 authorizing filing of a petition with the Sedgwick County Board of Commissioners to consider the annexation of 160 acres of agricultural land located immediately west of Broadway and north of 85th Street into the City of Valley Center. This parcel of land abuts the City of Valley Center on three sides (the north, south and west boundaries) and the City of Park City on the east boundary. This annexation involves an agricultural tract of land that does not qualify for unilateral annexation pursuant to the requirements of K.S.A. 12-520. Accordingly, Valley Center has petitioned the Sedgwick County Board of County Commissioners pursuant to the requirements of K.S.A. 12-521, to make a finding of whether this proposed annexation "causes manifest injury to the owners of any land proposed to be annexed, or to the owners of land in areas near or adjacent to the land proposed to be annexed, or to the city if the annexation is disapproved."

The proposed annexation area falls within the Valley Center 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005. The subject property has been designated for future potential commercial and residential development in the Valley Center Comprehensive Plan.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Valley Center has submitted to the MAPD, a service plan describing the extension of services to the annexation area.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been concluded that the proposed annexation areas adjacent to the Valley Center city limits is compliant with the intent of the Wichita-Sedgwick County Comprehensive Plan and the Valley Center Comprehensive Plan

Recommended Action: That the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 491-05 of the City of Valley Center to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan and the Valley Center Comprehensive Plan.

Attachments: Attachment No. 1 - Resolution No. 491-05 and map.
Attachment No. 2 - 2030 Urban Growth Areas Map, May 2005.

MOTION: We agree that the annexation is consistent with the adopted Comprehensive Plan.

DUNLAP moved **BISHOP** seconded, carries (10-0).

The Metropolitan Area Planning Department informally adjourned at 2:49 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)